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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,689	08/27/2001	Michael Knaupp	340058.534	4320

500 7590 09/23/2004

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EXAMINER

PRONE, JASON D

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/940,689

Applicant(s)

KNAUPP ET AL.

Examiner

Jason Prone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 24-61 is/are pending in the application.
- 4a) Of the above claim(s) 44-61 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-22 and 24-43 is/are allowed.
- 6) ☒ Claim(s) 1,8 and 9 is/are rejected.
- 7) ☒ Claim(s) 2-7 and 10-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Shepherd (6,126,524).

'524 discloses the same invention including a cutting head assembly (34) having a body adapted to receive an orifice at an orifice location for generating a high pressure fluid jet (40), a mixing tube positioned within the body of the cutting head assembly downstream of the orifice location (46), a motion assembly (86) coupled to the cutting head assembly via a clamp positioned around the body of the cutting head assembly (68), and that the outer surface of the body mates with an inner surface of the clamp in a weight-bearing manner to vertically position and support the cutting head assembly (Fig. 4).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over '524 in view of Stewart et al. '524 discloses the invention but fails to disclose a position sensor coupled to the clamp adjacent the cutting head. Stewart et al. teaches a position sensor coupled to a clamp adjacent the cutting head (224). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided '524 with a position sensor, as taught by Stewart et al., to allow for a more precise cut.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over '524 in view of Gerber. '524 discloses the invention but fails to disclose a flexible shield coupled to and surrounding an end region of the mixing tube. Gerber teaches a flexible shield coupled to and surrounding an end region of a mixing tube (70). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided '524 with a shield, as taught by Gerber, to prevent unwanted materials coming into contact with the jet.

Allowable Subject Matter

6. Claims 2-7 and 10-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 13-43 are allowed.

8. The following is an examiner's statement of reasons for allowance: Claims 13-43 are allowable because of the apparatus with a clamp, with a quick-release mechanism, that holds the cutting head assembly when the nozzle body assembly is separated from the cutting head assembly. None of the prior art cited discloses an apparatus that

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incorporates the use of a clamp that has a quick-release mechanism so that the clamp can easily be removed from the body of the cutting head assembly and that holds the cutting head assembly when the nozzle body assembly is separated from the cutting head assembly allowing access to the orifice location without removing the cutting head assembly. Therefore, in view of what has been stated above, the claims are allowable over the art of record.

9. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

10. Applicant's arguments filed 28 May 2004 have been fully considered but they are not persuasive. The term motion assembly is broad and, therefore, the motion assembly, in the Shepherd reference, is considered to be items 80, 84, 86, 98, and 96. Therefore, the motion assembly is coupled to the cutting head via the clamp as clearly shown in Figures 2 and 4.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is 703-605-4287. The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

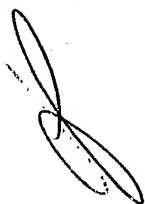
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature, possibly reading "JP", consisting of two overlapping loops.

JP
September 13, 2004

A handwritten signature, possibly reading "Allan", consisting of a stylized "A" followed by a diagonal stroke.

Allan N. Shoap
Supervisory Patent Examiner
Group 3700